

REMARKS

Claims 17-36 are pending in the application, of which claim 17 is the only independent claim. Applicants have amended claim 17, 26, and 27. Support for the amendment to claim 17 may be found throughout the specification and drawings and at least at Fig. 3 and paragraphs [0302] and [0506] of the as published application. Accordingly, no new material has been added. In response to the Notice of Non-Compliant Amendment dated August 2, 2010, applicant herein submits the corrected Claim 26, indicating the correct underlining for the whole amended limitation to the amended claim.

Claim Rejections – 35 U.S.C. § 103(a)

Claims 17-27 and 29-34 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over US Pat. No. 6343287 (“Kumar”) in view of US Pat. No. 6839721 (“Schwols”). Applicants respectfully traverses the rejections.

Applicants’ claims previously recited a database management program that is integrated with a file system. The Office Action asserts that this element is inherent: “wherein it is inherent that databases are managed at the application level with their own management program” (Office Action p.3).

A claim of inherency under MPEP § 2144 has a heavy burden. Under MPEP § 2144, it is not sufficient that a characteristic may occur. Rather, the inherent characteristic must necessarily flow from the teaching. Further, the Office Action must provide a rationale or evidence for such necessary characteristic. Applicants respectfully submit that the Office has not articulated a rationale for why Kumar inherently describes the subject matter recited by Applicants’ claims. The Office asserts that the claimed subject matter is inherent because databases are managed at the application level with a management program. Applicants submit that this does not logically prove that a database is necessarily integrated with a file system.

In addition, the Office Action states that a “query such as SQL inherently has a scope” (Office Action p. 3). Again, the Office Action failed to provide any rationale, or evidence to show the supposed inherency for the rejection under inherency. To the extent that the office action relies on inherency, Applicants traverse the rejections.

Regardless, Applicants have amended claim 17. As amended, Applicants' claim 17 recites a database management program that encapsulates a file system. Applicants respectfully submit that the cited portions of Kumar and Schwols, individually and in combination fail to teach or suggested the elements of Applicants' claims as amended.

Claim 28 stands rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Kumar in view of Schwols in further view of US Pat. No. 6473851 ("Plutowski"). Claim 28 depends from claim 17. Plutowski was not relied upon to cure the deficiencies of Kumar and Schwols noted above and Applicants submit that it does not. Therefore, for at least the reasons noted above, Applicants respectfully traverse the rejection.

Claims 35 and 36 stand rejected as allegedly being unpatentable over Kumar in view of Schowls in further view of Middleware 2000: IFIP/AMC International Conference on Distributed Systems Platforms, New York, NY, USA April 2000 ("C. Liebig"). Claims 35 and 36 depend from independent claim 17. C. Liebig is not relied upon to cure the deficiencies noted above and Applicants submit that it does not. Therefore, for at least the reasons noted above with respect to claim 17, Applicants respectfully traverse the rejection.

Based on the foregoing remarks and amendments, Applicants respectfully submit that the application is in a condition for allowance. Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 103 and the issuance of a notice of allowance.

Conclusion

Applicants respectfully request that the Examiner issue a notice of allowance for all claims.

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